Memorandum of Understanding
Between a State Agency and Other Governmental Body
or Political Subdivision Terms and Conditions

I. SCOPE OF SERVICES

This Memorandum of Understanding ("Agreement") is entered into, by and between the Commonwealth of Kentucky, Justice and Public Safety Cabinet, Kentucky Department of Corrections ("DOC"), and Madisonville Community College (MCC) ("Contractor"), (collectively "Parties"), to provide college-level courses and employment skills to offenders within selected DOC facilities around the Commonwealth of Kentucky.

The sole purpose of this Agreement is to enhance and coordinate higher educational services for all students under the custody of the Commonwealth of Kentucky while they are incarcerated and upon release. The administration of Contractor will work to connect DOC selected prison facilities to both a community college and four-year college, or university, to give every person in prison a choice and opportunity to: 1) be identified as a student at the post- secondary level, 2) be exposed to college-level enrichment activities, and 3) to work toward obtaining college credentials and degrees in higher education.

Contractor is committed to assisting people in prison earn an associate degree or other post-secondary credential. Contractor commits to ensure that programs offered do not prohibit licensure or employment of formerly incarcerated individuals, if applicable. Additionally, Contractor commits that programs to be offered satisfy professional licensure or certification requirement, if applicable. Contractor commits to assist released individuals with an associate degree (or credential) toward completion and transfer to a baccalaureate program of study. Contractor will take advantage of the Kentucky transfer system that allows all credits earned through one two- year institution or community college, to transfer seamlessly to any other two- year institution in Kentucky. In addition, if an associate degree or other post- secondary credential is completed, the entire degree may be transferable to a four-year institution in Kentucky.

The initial Agreement is effective from July 1, 2024 through June 30, 2026.

II. GUIDING PRINCIPLES FOR THE [ACADEMIC INSTITUTION]

1. Full compliance with the policies and procedures of the DOC

The Parties agree to carry out activities in ways that are fully compliant with DOC policies and procedures in order to maintain the safety and security of those involved with the provision of services pursuant to this Agreement. In any cases of conflict between Contractor academic policies and/or practices and DOC policies and/or practices, DOC policies and/or practices shall be controlling, unless the DOC authority specifically indicates otherwise.

2. Quality educational offerings

The Parties recognize the need to provide the highest quality of educational offerings possible within the unique context of DOC institutions. The qualifications of instructors and the

classroom pedagogy (including the design of syllabi and evaluation of student learning) are the responsibility of the Contractor.

Both parties agree to create and participate in an oversight committee to ensure the implementation of curricula is carried out to promote student success, as measured by course completion, graduate rates, and other typical academic metrics. Academic differences between Parties, where necessary, shall be addressed by the Contractor's Vice President of Academic Affairs and President, in addition to DOC's representatives, or their immediate designees.

3. **Fiscal transparency and cost effectiveness**

The Parties recognize that, even with participation in Second Chance Pell (SCP) or Pell, Contractor's programs may not be adequately funded through the tuition-based revenue models that are the norm for U.S. higher educational programs, so exceptional care shall be given to managing program costs and coordinating available revenue streams to ensure that Contractor remains financially viable for the Parties over time.

4. **Openness to new instructional partners**

The Parties recognize that the goals of Contractor represent an important public good and welcome the participation of any additional two-year and four- year higher education partners, public and private, based on separate agreements between DOC and those entities, that would like to participate actively and that accept the guiding principles outlined in this section of the Agreement.

III. DEFINITIONS

For the purposes of this Agreement, the definitions listed in this section shall represent the common and exclusive understanding of the parties hereto. The singular and plural form, as well as the small or upper case, of any defined term can be used interchangeably regardless of whether the definition refers to the singular or plural term, or uses the small or upper case, and pronouns shall be deemed to include all genders.

1. "Contractor" means the person or entity identified as the Contractor in the Scope of Services section of this Agreement.

2. "Contractor employee" means an agent, contractor, designee, employee, subcontractor, vendor, or any other individual or entity acting on behalf of the Contractor that provides services pursuant to this agreement.

3. "Course" or "Class" means a course of education or training conducted by contractor pursuant to this Agreement.

4. "DOC PREA standards" means all Department of Corrections policies related to PREA, defined below

5. "Educational services" means courses, programs, instruction, tutoring, student support services (i.e., counseling, advising, reentry/wrap-around, etc.), testing, remediation, for accredited, associate and bachelor's degree pathways using distance, virtual, or hybrid learning modality and a secure online connection.

6. "Institution" means any institution or facility under the control of DOC.

7. "Institutional lockout" means a Contractor employee is prohibited by DOC from entering an institution, or any other DOC property, due to alleged, or substantiated, misconduct, which shall include but not be limited to the commission of a misdemeanor or felony, violation of DOC safety and facilities management policies, testing positive on a drug test, and/or refusal to comply with the DOC drug-testing program.

8. "Personally Identifiable Information (PII)" shall mean an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden. name, and criminal, medical, and financial records, as well as educational transcripts.

9. "PREA" means the Prison Rape Elimination Act, 34 U.S.C.A. § 30301, et seq. (formerly cited as 42 USCA § 15601, et seq.).

10. "PREA national standards" means 28 C.F.R. Part 115.

11. "Prison Education Program (PEP)" means an education or training program facilitated by an accredited institution of higher education in accordance with 34 C.F.R. 668.236.

12. "Second Chance Pell" or "Pell" means the federal program established by the United States Department of Education to provide Pell Grants to incarcerated individuals to allow them to participate in postsecondary education programs.

13. "Student" means a DOC inmate that participates in educational services provided by the Contractor at an institution.

14. "TABE" means the Test for Adult Basic Education (TABE), a diagnostic test used to determine a person's skill levels and aptitudes.

IV. TERMS AND CONDITIONS

A. DOC shall

1. Work with the Contractor to plan the class schedule for each academic term.

2. Provide Contractor employees the following conveniences at no charge:

   2.1. Access to the institution;

      2.1.1. A full listing of all adult institutional facilities can be found here: https://corrections.ky.gov/Facilities/Pages/default.aspx.

   2.2. Access shall be subject to the standards and restrictions set forth in this agreement;

   2.3. Office space with associated utilities;

   2.4. Equipment and infrastructure for virtual meetings; and

2.5. Access to a copier.

3. Provide classroom space and supplies, including:

   3.1. Classroom with tables and chairs;

   3.2. Access to one staff computer to complete attendance sheets and reports as required by policy; and

   3.3. Equipment and tools comparable to those used at the main college campus by technical programs, as reasonably necessary for student course completion.

4. Provide training for each contractor employee entering the facility and/or communicating with a student virtually or in a distance format, including:

   4.1. Necessary modules related to safety, security, relevant policies and procedures, the Prison Rape Elimination Act, maintaining professional boundaries, and the use of core correctional practices to effectively respond to behavior.

5. Approve eligible inmates for participation in services of Contractor.

6. Provide an initial list of eligible potential students to Contractor prior to the beginning of each academic term's course.

7. Ensure that course records, including attendance and grades, shall be entered in the Kentucky Offender Management System.

8. Notify the Contractor of any claims or litigation that involves Contractor employees, in writing within five (5) business days of receipt of notice or summons.

9. Have authority to require Contractor employees to comply with DOC institutional safety and facilities management policies and procedures.

10. Designate a contact person for each institution participating in this Agreement.

11. Be responsible for the processing and handling of inmate-initiated civil complaints against DOC personnel.

12. In the event of an institutional lockout, provide to the Contractor, upon request, all relevant investigative information regarding Contractor employees, to the extent permitted by law.

13. Ensure that educational courses in an institution shall operate on a 12-month basis.

14. Agree that Contractor employees shall follow the Contractor's calendar for all holidays.

15. Not be responsible for reimbursing the Contractor for services rendered, or expenses incurred, pursuant to this agreement.

16. Require that Contractor employees participate in the DOC drug-testing program and random tests as well as tests based on reasonable suspicion, as determined by the DOC institution Warden, of drug or alcohol impairment.

16.1. Contractor shall supply to DOC the Contractor Employee ID numbers of all Contractor employees to accommodate the random selection of test subjects.

16.2. Contractor employees who test positive on a drug or alcohol impairment test or refuse to comply with the drug-testing program shall be escorted off institution premises and be subject to institutional lockout.

16.3. Tests based on reasonable suspicion of drug or alcohol impairment shall not be required to be random.

16.4. DOC will provide the test, and pay the test fee, if the test is administered at a DOC facility by DOC's vendor.

17. Ensure the random nature, integrity, and security of drug tests administered to Contractor employees.

18. Maintain decision making related to the impact of disciplinary infractions by participating incarcerated students.

19. Participate in regular (i.e., weekly, monthly, quarterly) oversight committee meetings with the Contractor.

20. Ensure support by DOC programing, including readiness, motivation, tutoring, including peer tutoring, and social support, for educational services provided by Contractor.

21. To the extent permitted by law, retain all textbooks donated or purchased pursuant to this Agreement.

22. When Pell is used for tuition, provide the contractor with transfer and release dates of students as required pursuant to 34 CFR 668.239.

23. Make a determination at the end of two years regarding whether the academic programs offered by the Contractor operating in the facility are in the best interest of students in the facility.

23.1. This determination shall be based on an assessment of the following pursuant to 34 C.F.R. 668.241(a)(1):

23.1.1. Whether the experience, credentials, and rates of turnover or departure of instructors for the prison education program are substantially similar to other programs at the institution, accounting for the unique geographic and other constraints of prison education programs;

23.1.2. Whether the transferability of credits for courses available to confined or incarcerated individuals and the applicability of such credits toward related degree or certificate programs is substantially similar to those at other similar programs at the institution, accounting for the unique geographic and other constraints of prison education programs;

23.1.3. Whether the prison education program's offering of relevant academic and career advising services to participating confined or incarcerated

individuals, while they are confined or incarcerated, in advance of reentry, and upon release, is substantially similar to offerings to a student who is not a confined or incarcerated individual and who is enrolled in, and may be preparing to transfer from, the same institution, accounting for the unique geographic and other constraints of prison education programs; and

23.1.4. Whether the institution ensures that all formerly confined or incarcerated individuals are able to fully transfer their credits and continue their programs at any location of the institution that offers a comparable program, including by the same mode of instruction;

23.2. This determination may include an assessment of the following pursuant to 34 C.F.R. 668.241(a)(2):

23.2.1. Recidivism rates;

23.2.2. Completions rates;

23.2.3. Continuing education;

23.2.4. Job placement rates;

23.2.5. Measurement of earnings; and

23.2.6. Other indicators pertinent to program success

B. <u>DOC may</u>

1. Upon request of the Contractor, provide input to assist the Contractor in preparing the employee performance evaluation of Contractor employees.

2. Assign classroom/office keys to Contractor employees.

2.1. Keys shall remain stored at the institution's Central Control and shall be checked-out and returned by Contractor employees to Central Control daily.

3. Reserve the right to institute, and continue, an institutional lockout of a Contractor employee, regardless of the outcome of any investigation of, or disciplinary action concerning, that Contractor employee.

4. Permit Contractor employees to use data storage devices such as flash drives, providing the data storage devices are inspected and documented by DOC security and DOC information technology personnel daily.

4.1. All DOC-related records and information stored on such devices and drives remain DOC records and shall be subject to DOC policies and procedures regarding use, transfer, or dissemination, of such records.

C. The Contractor shall

1. Agree and acknowledge that DOC shall not be responsible for reimbursing Contractor for services contemplated pursuant to this MOU.
2. Agree and acknowledge that scholarships and grants shall be the source of funding for contractor for services contemplated pursuant to this MOU.
3. Work with the DOC to plan the class schedule for each academic term.
4. Provide college-level courses and employment skills to offenders that lead to a diploma, or credential (degree) that facilitate work opportunities in areas that are needed in the current job market. Specifically, MCC shall provide coursework leading to an Associate in Arts and Associate in Science degrees to students at Green River Correctional Complex. Other offerings may be discussed based on mutual needs moving forward.
5. Provide all academic student support, including career counseling and career placement services, related to services provided by Contractor pursuant to this Agreement.
6. Provide instructors with experience, credentials, and rates of turnover for the prison education program substantially similar to other programs at the contractor institution, accounting for the unique geographic and other constraints of the prison education program (34 CFR 668.241).
   6.1. Contractor employees delivering educational services have the appropriate credentials to teach college level curriculum and be pre- approved by DOC.
7. Provide qualified staff to work in a secured prison environment and within a classroom setting Monday through Friday, excluding holidays and weekends, if needed (each site is unique, so each site may offer different days and times).
   7.1. Qualified staff includes:
      7.1.1. A sufficient number of licensed college Instructors, for all college level courses that shall be provided (credentials shall be required).
      7.1.2. One or more full-time staff to act as the Site Coordinator for each site (coordinator can oversee multiple sites if all contract obligations can be met in a timely manner).
      7.1.3. Vendor may provide online availability of course completion utilizing a virtual learning platform, with prior approval by the Kentucky Department of Corrections.
8. Ensure the number of class sessions offered each term are adequate for students to complete the approved course of study within a reasonable time frame.
9. Ensure adequate student enrollment in each class.
10. Work with DOC institution staff to ensure the safety of all parties involved including instructors and students.
11. Assist and coordinate all aspects of college courses including but not limited to attending meetings, scheduling office times for students, providing potential student names and information to help with verification, enrollment, and testing.
12. Assign a Contractor Site Coordinator that must be available to students for advising services substantially similar to offerings to students who are not confined or incarcerated and enrolled in the same college. (34 CFR 668.241).

13. Agree that Contractor Site Coordinators shall be responsible for gathering and submitting all required paperwork to prison staff.

14. Recruit (each semester) eligible students into their program by providing announcements, distributing literature in the school area, housing units, and attending scheduled orientation meetings for incoming offenders.

15. Provide:

    15.1. Textbooks and supplies as needed for each course provided including but not limited to learning platforms compatible with state issued tablets, audiovisual equipment approved pursuant to KDOC policies, and paper and writing instruments.

    15.2. Consumable materials in the technical courses.

Prior approval shall be required for all equipment and supplies coming into an institution. DOC is currently using Securus tablets with the lantern LMS.

16. Agree to use required DOC forms to complete attendance each day, including required reports at the end of each month and evaluations on each student at the end of each semester.

17. Report each semester an official Contractor student roster to include, but not be limited to a list of all students' credits earned from Contractor and whether they are a Pell recipient Each student will need to sign a FERPA release form in order for Contractor to provide this information.

18. Secure a qualified substitute instructor or reschedule all classes cancelled due to the absence of an instructor assigned by the Contractor.

19. Provide unofficial transcripts to students upon request, to include at least one (1) official transcript at no cost, upon receiving the appropriate signed transcript request.

20. Provide proof of current scholarships and/or grants that will be available to students while still incarcerated.

21. Ensure all Contractor employees assigned to an institution attend required training, including but not limited to required annual DOC and PREA training and completes all required forms and background checks.

22. Be accredited and recognized by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) and in good standing. As a part of the Prison Education Program (PEP) and the Contractor's SACSCOC accreditation, the Contractor shall be obligated to notify DOC and develop a teach out plan to close the program should the Contractor be subject to adverse action by SACSCOC.

23. Demonstrate the ability to provide additional scholarships and/or grants to assist students post and pre-release, including but not limited to the GI Bill, Second Chance Pell Program, reinstatement of the Pell Grant, for the incarcerated.

24. Demonstrate the ability to allow eligible students to self-pay for college-level classes while incarcerated.

25. Provide post and pre-release career counseling mirroring close to what is provided on their college or university campuses.

26. Provide an Official transcript, upon request, to another college campus at no cost to the student while participating in a PEP or upon initial release from incarceration.

27. Ensure seamless transition to the Contractor's college campus and or/online program once a student is released, or to another Kentucky college or university to the extent Contractor is reasonably able, if student chooses to continue their education.

28. Provide a list of offered courses and identify the related degree(s) or certification(s) Contractor plans to provide. All college credit courses offered shall lead up to but not be limited to a degree, diploma, or industry certification. Course(s) descriptions must articulate what is offered on the contractor's main campus.

29. Provide robust and evidence-based curriculum, with emphasis on improving program quality through integration of industry-recognized credentials, integrating multiple credentials in the same program to boost employability, and incorporating modern technology.

30. Include stackable, industry-recognized credentials, educational awards (i.e., Cert A, B, and C), and/or, associate degrees.

31. Deliver education services in accordance with a specific education and employment plan created by Contractor, which is developed after a thorough education and employment assessment at admission, including skills and competency assessments (which will be ongoing as needed during incarceration and before placement in programming).

32. Offer educational services that specifically meet the workforce needs of Kentucky employers, with at least annual analysis of high-demand fields appropriate for returning citizens and routine tracking of employment post- release.

33. Establish sustained relationships with workforce agencies with robust pre- release contact.

34. Include quality assurance and fidelity, including outcome analysis, data tracking and reporting, and impact assessment. Specifically, Contractor shall provide data to include enrollment numbers, retention rates, course success rates compared to similar data of non-PEP students.

35. Include ongoing review of education services for quality assurance and market relevance.

36. Include ongoing evaluation to ensure positive impact on student's ability to gain sustained livable wage employment in in-demand occupations upon release from incarceration and to reduce recidivism.

37. Be supported by strong collaboration between all partners, with emphasis on partnering with employers, centralized employer outreach, staff dedicated to making connections between courses and employers, providing career services, and hosting productive employer events.

38. Ensure that Contractor employees comply with the applicable terms of this Agreement.

39. Ensure that Contractor employees comply with the Contractor's personnel procedures.

40. Ensure that only classes approved by DOC will be taught to students.

41. Ensure that Contractor employees who may have contact with inmates _shall be subject to DOC's policies requiring background investigations for contractors and shall not be allowed to have contact with inmates unless they have passed a DOC background investigation within the last five years.

42. Agree and acknowledge Contractor employees shall be subject to security checks when they enter and exit an institution.

43. Agree that Contractor employees participate in the DOC drug-testing program and be subject to random tests as well as tests based on reasonable suspicion, as determined by the DOC institution Warden, of drug or alcohol impairment.

44. Supply to DOC the Contractor employee ID numbers of all Contractor employees to accommodate the random selection of test subjects.

45. Agree all Contractor employees who test positive on a drug or alcohol impairment test or refuse to comply with the drug-testing program shall be escorted off institution premises and subject to institutional lockout.

46. Ensure that Contractor employees seek reimbursement for eligible expenses from the Contractor, rather than the Commonwealth.

47. Be responsible for reimbursing Contractor employees for all incurred eligible expenses.

48. In a manner consistent with its policies and procedures, oversee the appeal or complaint resolution process of complaints and grievances initiated by Contractor employees.

49. Ensure that it obtains and maintains in effect, all required permits, licenses, and insurance.

50. Within five (5) business days of the request, provide a copy of the personal service contract, or any other agreement, between the Contractor and DOC.

51. Ensure adequate accommodations are in place for any student with a plan instituted per Section 504 of the Rehabilitation Act of 1973.

52. Ensure compliance with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract.

53. Grant credit for prior learning for existing credentials, where applicable.

54. Ensure robust outreach to a demographically diverse group of students, ensuring equity and equality.

55. Participate in regular (i.e., weekly, monthly, quarterly) oversight committee meetings with DOC regarding institutions where Contractor provides educational services.

56. Provide a copy of an unofficial transcript indicating any and all diplomas and degrees earned by students while incarcerated to the Corrections Regional Education Administrator at the facility. Each student will need to sign a FERPA release form in order for Contractor to provide this information.

V. JUSTICE AND PUBLIC SAFETY CABINET TERMS AND CONDITION

1. Contractor shall comply at all times with all applicable federal, state, and local laws, regulations, executive orders, and attorney general opinions. Contractor's failure to comply with all applicable federal, state, and local laws, regulations, executive orders, and attorney general opinions shall be a material breach of and grounds for immediate termination of this contract.

2. Contractor shall comply with all applicable Commonwealth of Kentucky Executive Department policies and procedures, and Commonwealth Office of Technology policies and procedures.

3. The Contractor shall report any and all acts and omissions constituting a violation of applicable federal, state, or local laws, policies and procedures, or this Agreement, to the Commonwealth in writing within one business day of the discovery of the violation.

4. To the extent permitted by law, the Contractor agrees to indemnify and hold harmless the Commonwealth against any and all claims, losses, demands, obligations, and litigation, including attorneys' fees, that result from or by: (1) goods tendered and services rendered by the Contractor in connection with performance of this Agreement; (2) any and all bad-faith, erroneous, negligent, reckless, and unlawful acts and omissions of the Contractor, its officers, or employees in the performance of this Agreement; (3) the Contractor's creation of a hazardous condition or exacerbation of a pre- existing hazardous condition; (4) the Contractor's publication, translation, reproduction, delivery, performance, use, or disposition, of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes (5) the Contractor's employment practices during the term of this Agreement; and (6) any failure of the Contractor, its officers, or employees to observe federal, state, and local laws and regulations, including but not limited to those referenced herein.

5. Both parties, including any subcontractors or agents of each, agree to comply with all applicable state and federal confidentiality laws, including the Family Educational Rights and Privacy Act and the Health Insurance Portability and Accountability Act, and to protect the security, confidentiality, and integrity of education and health information. The Contractor acknowledges and agrees that the Commonwealth shall be entitled, without waiving any other rights or remedies, to injunctive or equitable relief to enforce the requirements of this provision of this Agreement.

6. Vendors and other state agencies that receive Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, et seq. ("the Act"), shall secure and protect the Personal Information by, without limitation, complying with all requirements applicable to non-affiliated third parties set for in the Act.

    6.1. "Personal Information" is defined in accordance with KRS 61.931(6) as "an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one(1) or more of the following data elements:

        6.1.1. An account, credit card number, or debit card number that, in combination with any required security code, access code, or password, would permit access to an account;

        6..1.2. A Social Security number;

        6.1.3. A taxpayer identification number that incorporates a Social Security number;

        6.1.4. A driver's license number, state identification card number, or other individual identification number issued by an agency;

6.1.5. A passport number or other identification number issued by the United States government; or

6.1.6. Individually Identifiable Information as defined in 45 C.F.R. sec. 160.013 (of the Health Insurance Portability and Accountability Act), except for education records covered by the Family Education Rights and Privacy Act, as amended 20 U.S.C. sec. 1232g.

6.2. As provided in KRS 61.931(1), an "agency" means:

6.2.1. The executive branch of state government of the Commonwealth of Kentucky;

6.2.2. Every county, city, municipal corporation, urban-county government, charter county government, consolidated local government, and unified local government;

6.2.3. Every organizational unit, department, division, branch, section, unit, office, administrative body, program cabinet, bureau, board, commission, committee, subcommittee, ad hoc committee, council, authority, public agency, instrumentality, interagency body, special purpose governmental entity, or public corporation of an entity specified in paragraph (a) or (b) of this subsection or created, established, or controlled by an entity specified in paragraph (a) or (b) of this subsection;

6.2.4. Every public school district in the Commonwealth of Kentucky; and

6.2.5. Every public institution of postsecondary education, including every public university in the Commonwealth of Kentucky and public college of the entire Kentucky Community and Technical College System;

6.3. The Contractor agrees to cooperate with the Commonwealth in complying with the response, mitigation, correction, investigation, and notification requirements of the Act.

6.4. The Contractor shall notify as soon as possible, but not to exceed seventy-two (72) hours, the Commonwealth, the Commissioner of the Kentucky State Police, the Auditor of Public Accounts, and the Commonwealth Office of Technology, of a determination of, or knowledge of, a breach, unless the exception set forth in KRS 61.932(2) applies and the Contractor abides by the requirements set for in that exception. Notification shall be in writing on a form developed by the Commonwealth Office of Technology

6.5. The Contractor agrees to undertake a prompt and reasonable investigation of any breach as required by KRS 61.933.

6.6. Upon conclusion of an investigation of a security breach of Personal Information as required by KRS 61.933, the Contractor agrees to an apportionment of the costs of the notification, investigation, and mitigation of the security breach.

6.7. In accordance with KRS 61.932(2)(a), the Contractor shall implement, maintain, and update security and breach investigation procedures that are appropriate to the nature

of the information disclosed, that are at least as stringent as the security and breach investigation procedures and practices established by the Commonwealth Office of Technology.

7. The Parties shall protect the confidentially of Intern education records pursuant to the Family Education Rights and Privacy Act ("FERPA"). Contractor shall promptly notify the Parties in writing of any release of information from student education records contrary to the Act.

8. The Contractor agrees that it shall not distribute, divulge, publish, or release any data or information obtained from or owned by the Commonwealth without the prior written approval of the Commonwealth unless compelled to do so by law or by a judicially signed order from a court of competent jurisdiction. The Contractor acknowledges that it receives the Commonwealth's data or information solely for the purposes of this Agreement, and that its receipt of the Commonwealth's data or information in no way creates any ownership interest in the Commonwealth's data or information, unless explicitly provided otherwise within the terms and conditions of this Agreement.

9. The Contractor shall ensure that any and all access to Commonwealth data by Contractor personnel is limited to only those Contractor personnel with a necessary and essential purpose to fulfill the terms and conditions within this Agreement.

10. The Contractor shall not utilize Commonwealth data for the Contractor's benefit except as contemplated within and pursuant to the terms and conditions of this Agreement. The Contractor shall not sell or resell any and all Commonwealth data.

11. The Contractor shall ensure that any and all data transmitted and received on behalf of and as directed by the Commonwealth is transmitted and received only via secure methods and protocols.

12. Upon the expiration of the term of this Agreement, unless it is renewed prior to its expiration, and to the extent allowed pursuant to Contractor's records retention policy, the Contractor shall either: (1) return any and all data provided by the Commonwealth, destroy any and all copies of the data in whatever form they occur, complete the attached Data Destruction Certification, and submit the certificate to the Commonwealth no less than 7 calendar days after expiration of this Agreement; (2) destroy the data, including any and all copies of the data in whatever form they occur, without returning the data to the Commonwealth, complete the attached Data Destruction Certification, and submit the certificate to the Commonwealth no less than 7 calendar days after expiration of this Agreement; or (3) retain the data subject to the terms of this Agreement regarding data ownership, privacy, and breach. The Commonwealth retains discretion to choose the option Contractor shall perform. In the event that the Commonwealth has not communicated to the Contractor which option should be followed, the Contractor shall perform the actions listed in option (1).

13. The parties agree that they receive all information communicated between them before the execution of this Agreement in strict confidence and that the receiving party, its agents, or employees shall not, without prior written consent of the other party, disclose any such information, subject to Commonwealth of Kentucky and federal disclosure laws.

14. The Contractor shall not represent that a working copy, draft, or the finalized version of this Agreement is identical to a previous iteration of this Agreement if the Contractor has made edits since the last iteration. The Contractor shall clearly present all edits, either through editing functions in word processing software, or as a list provided contemporaneously with

the most recently edited iteration.

15. During the term of this Agreement, Contractor shall be authorized in its sole discretion to discipline, terminate, or take any other personnel action against Contractor personnel. Upon communication by Commonwealth of an issue with Contractor personnel, Contractor shall have the sole authority to take action to effect a solution.

16. In no event shall any person or entity be deemed to be a third-party beneficiary of this Agreement.

17. The Contractor acknowledges that the Commonwealth may execute agreements with other vendors for additional or related goods and services that address, interact with, or otherwise regard this Agreement. The Contractor shall fully cooperate with such other vendors and vendor personnel, agents, and designees. The Contractor shall not commit any act; allow any omission; or permit its personnel, agents, or designees to commit any act or allow any omission that will interfere with the performance of work by any other vendor or any other vendor's personnel, agents, or designees.

18. Each party shall provide a contact to resolve any and all issues related to this Agreement and promptly update the contact information as necessary.

19. All notices under this Agreement shall be given in writing. Electronic mail constitutes a writing.

20. No change, waiver, or discharge of any liability or obligation under this Agreement on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

21. No party shall assign its respective rights or obligations under this Agreement without prior written consent of the other party. Any purported assignment or delegation in violation of this Agreement is void.

22. The terms and conditions of this Agreement may only be amended by mutual written consent of both parties.

23. The Contractor agrees that any and all violations of this Agreement may result in the immediate termination of this Agreement. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky.

24. Both parties shall have the right to terminate and cancel this Agreement at any time not to exceed thirty (30) days' written notice served on the other party by registered or certified mail.

25. The parties agree that any claim, action, or lawsuit arising under this Agreement must be brought in Franklin Circuit Court in the Commonwealth of Kentucky.

26. If any term or provision or any part of this Agreement is declared invalid or unenforceable, the remainder of this Agreement shall not be affected, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by the law.

27. This Agreement is the final and exclusive agreement between the parties. All prior negotiations and agreements are superseded by this Agreement.

28. Nothing in this Agreement shall be deemed to waive, or otherwise limit, the rights, privileges, immunities, including sovereign immunity granted under Kentucky Constitution §§ 230 & 231 and the United States Constitution Eleventh Amendment, and matters of defense now available or hereafter made available to the parties and/or their officers and employees.

[Signature page follows]

VI. APPROVALS

This Agreement is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this agreement and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

DOC

Hilarye Dailey	Deputy Commissioner
Signature	Title
Hilarye Dailey	6/24/24
Printed Name	Date

Contractor

Cynthia S Kelley	President/CEO
Signature	Title
Cynthia S Kelley	6/17/2024
Printed Name	Date

Approved as to form and legality

KYDOC Attorney